

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

LUFKIN DIVISION

JUAN MANUEL ALBARADO	§	
VS.	§	CIVIL ACTION NO. 9:19cv226
BRYAN COLLIER, ET AL	§	

MEMORANDUM OPINION REGARDING VENUE

In a pleading (doc. no. 53) filed in response to a court order, plaintiff named the following defendants: (1) Bryan Collier; (2) Mohammad Touhami; (3) David Blackwell; (4) Sergeant Schwarts; (5) Captain Merchant; (6) Sergeant Layne; (7) Sergeant Early; (8) Sergeant Schmitt; (9) Lieutenant Valdez; (10) Officer King; (11) Officer Posvane; (12) Beverly Harbour; (13) Greg Rodriguez; and (14) Classification Chief Jacobs.

The Civil Rights Act, 42 U.S.C. § 1981, *et. seq.*, under which this case is brought, does not contain a specific venue provision. Accordingly, venue is controlled by 28 U.S.C. § 1391. *Jones v. Bailey*, 58 F.R.D. 453 (N.D. Ga. 1972), *aff'd per curiam*, 480 F.2d 805 (5th Cir. 1973).

When, as in this case, jurisdiction is not founded solely on diversity of citizenship, 28 U.S.C. § 1391 provides that venue is proper only in the judicial district where the defendants reside or in which the claim arose.

Defendants Merchant, Layne, Early, Schmitt, Valdez, King, Harbour, Rodgiruez and Jacobs (collectively the “Robertson Defendants”) are employed at the Robertson Unit and are sued based on events that occurred at the Robertson Unit. In addition, Defendants Collier and Blackwell are sued based on events that occurred at the Robertson Unit.

The Robertson Unit is located in Jones County, Texas. The Robertson Defendants therefore appear to reside in Jones County. Further, as the actions attributed to the Robertson Defendants and defendants Collier and Black were taken at the Robertson Unit, the claims against these defendants arose in Jones County. Pursuant to 28 U.S.C. § 124, Jones County is located in the Abilene Division of the Northern District of Texas.

As Jones County is located in the Abilene Division of the United States District Court for the Northern District of Texas, venue with respect to the claims against the Robertson Defendants and Defendants Collier and Blackwell is not proper in this court. When a case or claim is filed in the wrong district, the court "shall dismiss, or if it be in the interests of justice, transfer such case to any district or division in which it could have been brought." 28 U.S.C. § 1406(a).

ORDER

Accordingly, plaintiff's claims against the Robertson Defendants and Defendants Collier and Blackwell are **SEVERED** and **TRANSFERRED** to the Abilene Division of the United States District Court for the Northern District of Texas.

SIGNED this 11th day of June, 2023.



Zack Hawthorn
United States Magistrate Judge